

New law provides that any person or firm contracted by a state, parish, or municipal tax authority to perform mass appraisal assignments is exempt from the real estate appraiser licensing requirements.

New law establishes the La. Appraisal Management Company Licensing and Regulation Act.

New law provides for the following definitions:

- (1) "Appraisal" means the act or process of developing an opinion of value of real property following the appraisal process defined by the Uniform Standards for Professional Appraisal Practice.
- (2) "Appraisal management company" means any corporation, partnership, sole proprietorship, subsidiary, unit, or other business entity that engages in any of the following activity:
 - (a) Administers a network of independent contract appraisers to perform real estate appraisal services for lenders or other clients.
 - (b) Receives requests for residential appraisal services from clients and enters into agreements, written or otherwise, with one or more independent appraisers to perform the real estate appraisal services contained in the request.
- (3) "Appraisal management services" means the process of receiving a request for the performance of real estate appraisal services from a client, and for a fee paid by the client, entering into an agreement with one or more independent appraisers to perform the real estate appraisal services contained in the request.
- (4) "Appraiser" is defined as one who is expected to perform valuation services competently and in a manner that is independent, impartial, and objective.
- (5) "Appraiser panel" means a group of appraisers that has been selected by an appraisal management company to perform real estate appraisal services for the appraisal management company on behalf of lenders or other clients.
- (6) "Board" means the La. Real Estate Appraisers Board.
- (7) "Client" means any person or entity that contracts with or otherwise enters into an agreement for the performance of residential real estate appraisal services.
- (8) "Controlling person" means any of the following:
 - (a) An owner, officer or director of a corporation, partnership or other business entity seeking to offer appraisal management services in this state.
 - (b) An individual employed, appointed, or authorized by an appraisal management company who has the authority to enter into a contractual relationship with clients to contract for the performance of appraisal management services and has the authority to enter into agreements with independent appraisers for the performance of real estate appraisal services.
 - (c) An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.
- (9) "Real estate appraisal services" means residential valuation services performed by an individual acting as an appraiser, including but not limited to appraisal, appraisal review, or appraisal consulting, as these services are defined under the Uniform Standards for Professional Appraisal Practice.

New law requires an appraisal management company to obtain a license to do business in La.

New law requires the license to include the following information:

- (1) The name of the entity seeking a license.
- (2) The business address of the entity seeking a license.
- (3) The phone contact information of the entity seeking a license.
- (4) If the entity is not a corporation that is domiciled in La., the name and contact information for the company's agent for service of process in La.
- (5) The name, address, and contact information of any individual, corporation, partnership, or other business entity that has any ownership interest in the appraisal management company.
- (6) The name, address, and contact information for a controlling person.
- (7) Certification that the entity has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds an appraisal license in good standing in this state.
- (8) Certification that the entity has a system in place to review the work on a periodic basis of all independent appraisers that are performing real estate appraisal services for the appraisal management company to ensure that the real estate appraisal services are being conducted in accordance with Uniform Standards of Professional Appraisal Practice, pursuant to new law.
- (9) Certification that the entity maintains a detailed record for five years of each real estate appraisal service request that it receives and an itemized list of all fees contracted with each appraiser who performs real estate appraisal services for the appraisal management company.
- (10) An irrevocable Uniform Consent to Service of Process.
- (11) Any other information required by the board.

New law provides for exemptions from licensing for a business entity that exclusively employs persons on an employer/employee basis for the performance of real estate appraisal services, that enters into an agreement with another independent appraiser for the performance of real estate appraisals services that the hiring appraiser is unable to complete, or that enters into an agreement with an independent contractor appraiser if the appraisal report is cosigned by the hiring appraiser.

New law provides that the license shall be valid for one year from the date of issuance.

New law provides that an appraisal management company applying for or maintaining a license may not be owned by any person who has had a license or certificate to act as an appraiser, real estate broker or agent, mortgage broker, or mortgage originator, which combined are considered herein to be "real estate or lending-related licenses", refused, denied, suspended, canceled, or revoked in the past in any state without specific approval by the licensing board.

New law requires each appraisal management company seeking to be licensed in La. to certify to the board on an annual basis that it has a system in place to review on a periodic basis the work of all appraisers that are performing real estate appraisal services for the appraisal management company to ensure that the real estate appraisal services are being conducted in accordance with Uniform Standards of Professional Appraisal Practice.

New law requires that a licensed company certify to the board, on an annual basis, that it maintains a detailed record for five years of each real estate appraisal service request, the fee paid by the lenders to all appraisers, and the names of all appraisers.

New law prohibits an appraisal management company from influencing or attempting to influence the development, reporting, or review of an appraisal through coercion, extortion,

collusion, compensation, instruction, inducement, intimidation, bribery, or in any other manner, including but not limited to the following:

- (1) Withholding or threatening to withhold timely payment for an appraisal.
- (2) Withholding or threatening to withhold future business for an independent appraiser, or demoting or terminating or threatening to demote or terminate an independent appraiser.
- (3) Expressly or impliedly promising future business, promotions, or increased compensation for an independent appraiser.
- (4) Conditioning the request for a real estate appraisal service or the payment of an appraisal fee or salary or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate or opinion requested from an independent appraiser.
- (5) Requesting that an independent appraiser provide an estimated, predetermined, or desired valuation in an appraisal report, or provide estimated values or comparable sales at any time prior to the independent appraiser's completion of a real estate appraisal service.
- (6) Providing to an independent appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for purchase transactions may be provided.
- (7) Providing to an independent appraiser, or any entity or person related to the appraiser, stock or other financial or nonfinancial benefits, allowing the removal of an independent appraiser from an appraiser panel, without prior written notice to such appraiser.
- (8) Obtaining, using, or paying for a second or subsequent appraisal or ordering an automated valuation model in conjunction with a mortgage financing transaction unless there is a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is clearly and appropriately noted in the loan file, or unless such appraisal or automated valuation model is done pursuant to a bona fide pre- or post-funding appraisal review or quality control process or underwriting guidelines, and so long as the lender adheres to a policy of selecting the most reliable appraisal, rather than the appraisal that states the highest value.
- (9) Forcing an appraiser to accept an assignment where the delivery times are so short that they force the appraiser to render a misleading report.

New law prohibits an appraisal company from altering, modifying, or otherwise changing a completed real estate appraisal service report submitted by an appraiser.

New law provides for adjudication of disputes between an appraisal management company and an appraiser.

New law provides for enforcement and authorizes the board to levy fines or impose civil penalties not to exceed \$50,000 against any appraisal management company who does any of the following:

- (1) Commits any act in violation of new law.
- (2) Violates any rule or regulation adopted by the board in the interest of the public and consistent with the provisions of new law.
- (3) Procures a license by fraud, misrepresentation, or deceit.

New law provides that the board may impose a \$5,000 fine if an appraisal management company practices in La. without a license.

New law provides for disciplinary hearings and authorizes the board to establish administrative rules.

New law requires the proposed administrative rules to be approved by the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection, and International Affairs prior to adoption.

New law authorizes any appraisal management company doing business in La. at the time of passage of new law to continue to perform such services without a license until the earlier of either such time that the rules and regulations pertaining to new law have been approved or Jan. 1, 2011.

Provides for the severability of new law.

Effective January 1, 2010.

(Amends R.S. 37:3393(H)(5), (6), and (7); Adds R.S. 37:3393(H)(8) and 3415.1-3415.21)